

General Information Letter: Duty to withhold taxes from prize monies at athletic events in this State.

December 28, 1999

Dear:

Enclosed please find copies of two letters from your Association, both dated November 30, 1999. Apparently, one of the letters was supposed to be sent to the Pennsylvania Department of Revenue, but was sent to our office by mistake.

This letter is in response to your letter dated November 30, 1999 in which you state the following:

The xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, an IRC 501(c)(3) organization, is conducting the xxxxxxxxxxxxxxxxxxxxxxxx in the State of Illinois during xxxx of 2000.

Prize monies totaling over \$xxxxxxxxxxxxx will be paid to the nearly xxx participants. The xxxx reports to the IRS all prize monies paid using Form 1099 MISC. The IRS does not require the xxxx to withhold taxes on the prize monies paid.

My understanding is that Section 701 of the Illinois Income Tax Act (IITA) establishes that an employer must withhold Illinois income tax on compensation and other payments, if withholding those payments is required by the Internal Revenue Code. Therefore, withholding is not required by the state of Illinois.

Please advise as to the accuracy of this statement.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). For your convenience, we enclose a copy of 2 Ill.Adm.Code §1200 explaining these two types of rulings issued by the Department.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

You are correct in that Section 701 of the Illinois Income Tax Act (IITA) states that an employer must withhold Illinois income tax on compensation and other payments if withholding from those payments is required by the Internal Revenue Code. Enclosed please find a copy of the IITA Section 701.

For your information, I have enclosed Illinois Administrative Code Sections 100.7000 and 100.7010 which discuss the requirements and amounts of withholding as well as whether income paid to individuals should be characterized as compensation. Additionally, please find a copy of the Illinois Withholding Tax Guide and Tables (Booklet IL-700 and Booklet IL-700-T).

Please be advised that if your final determination is that you do not withhold, Illinois no longer requires informational reporting of payments such as those

that you describe in your letter. Prior to August 20, 1995, the IITA required informational reporting on Form IL-1096 for the following types of income:

1. Certain rent and royalty payments (IITA Section 1405.1)
2. Certain payments made under contracts for personal services (IITA Section 1405.2)
3. Certain payments of prizes and awards (IITA Section 1405.3)

However, Public Act 89-399 eliminated the requirement to file informational returns for the above mentioned types of income. Enclosed please find a copy of the relevant sections of Public Act 89-3909 which states that the reporting party is currently required to maintain a record of qualifying payments in a format that is available for review by the Department.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Heidi Scott  
Staff Attorney -- Income Tax